

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEPHEN HORNBUCKLE,
1621 114th Ave SE, Suite 222
Bellevue, WA 98004
425-679-0742,

Plaintiff,

v.

CENTERS FOR MEDICARE & MEDICAID
SERVICES,
7500 Security Boulevard,
Baltimore, MD 21244,

Defendant.

Cause No.: 12-1129

COMPLAINT FOR INJUNCTIVE RELIEF

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1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning documents related to a complaint investigation dated 10/06/08 of the Life Care Centers of America, Athens facility, which defendant has improperly withheld from plaintiff.

2. Defendant may be served under Federal Rule of Civil Procedure 4(i)(1),(2) by delivering a copy of the summons and this complaint to the Jenny Burkan, United States attorney for the Western District of Washington where this action has been brought; and by

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2 sending a copy of the summons and this complaint by certified mail to the Centers for
3 Medicare and Medicaid services at the Office of the General Counsel for the U.S. Department
4 of Health and Human Services at 200 Independence Ave., S.W., Washington, D.C. 20201.

5 2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

6 3. Plaintiff, Stephen Hornbuckle, is an attorney employed by The Hornbuckle
7 Firm and is the requester of the records which defendant is now withholding. Plaintiff has
8 requested this information for use in a civil lawsuit and prompt release of the information is
9 essential to meeting a deadline for this case. Plaintiff has authorization from Ana Howard,
10 representative of the estate of Dolly Anne Sutherland, to receive records pertaining to Dolly
11 Anne Sutherland.

12 4. Defendant Centers for Medicare & Medicaid Services is an agency of the
13 United States and has possession of the documents that plaintiff seeks.

14 5. By letter dated October 18, 2011, plaintiff requested access to the following
15 documents related to a complaint investigation dated 10/06/08 of the Life Care Centers of
16 America, Athens facility: investigation findings, investigation working papers, surveyor's
17 notes, reports, SOD/POC and recommendations from the investigator to include sanctions,
18 dispute resolutions and hearings. A copy of this letter is attached as Exhibit 1.

19 6. By letter dated March 15, 2012, plaintiff again requested access to the same
20 documents. A copy of this letter is attached as Exhibit 2.

21 7. Defendant received plaintiff's request for documents on March 16, 2012. A
22 copy of this e-mail is attached as Exhibit 3.

23 8. On May 24, 2012, the requested documents were sent to management for
24 approval.

25 9. Defendant has not responded to several phone calls requesting action on this

request.

10. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, plaintiff requests this Court:

1. Order defendant to provide access to the requested documents;
2. Expedite this proceeding as provided for in 28 U.S.C. § 1657;
3. Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
4. Grant such other and further relief as may deem just and proper.

Dated this 2nd day of July, 2012.

Respectfully submitted,

THE HORNBUCKLE FIRM

By Stephen Hornbuckle
Stephen S. Hornbuckle, WSBA#: 39065
1621 114th Avenue SE, Ste 222
Bellevue, WA 98004
Phone: (425) 679-0742
Fax: (425) 679-0003